

Exhibit A.4

From: [McKenna, Elizabeth](#)
To: [Aundrea K Gulley](#); [Wedgworth, Peggy](#); [Miller, Britt M.](#)
Cc: [Ho, Derek T.](#); [Nemelka, Michael N.](#); [SERVICE-EXTERNAL-DMS-MDL](#); [ReynoldsTeam \(gibbsbruns.com\)](#)
Subject: RE: DMS - Magistrate Gilbert hearing date
Date: Tuesday, February 26, 2019 4:33:06 PM

Counsel,

MDL Plaintiffs have the following discovery issues to add to the agenda. We will send an email later with comments to your proposals.

Regards,

Liz

Elizabeth McKenna

MILBERG TADLER PHILLIPS GROSSMAN LLP

One Pennsylvania Plaza, 19th Floor
New York, New York 10119

T: 212.631.8605

F: 212.273.4337

emckenna@milberg.com

[Bio Website](#)

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Outstanding Discovery Issues

1. Refresh of Defendants' financial information as of April 1, 2019.
2. Defendants' Interrogatory responses regarding DMS Customer Tenures.
3. OEM Pricing Information.
4. Production of documents from Reynolds' Competitive Intelligence files. *See* Jan. 10 and 18, 2019 correspondence.
5. Redactions by Reynolds of financial information. *See* Jan. 10, 2019 correspondence.
6. CDK production of pre-2013 documents regarding right of dealers to use independent integrators.
7. PX-442 – proposed joint venture between Reynolds and ADP.
8. CDK - Attorney-client privilege issue re “covenant not to compete” language / reconsideration of decision to withhold materials concerning the January 22, 2016 incident on privilege grounds.
9. CDK production of DMI/IntegraLink data.
10. Third party subpoena to ReverseRisk. *See* 2/22 Ross letter – exploring whether there are custodians or data during the pre-2016 time period.

From: Aundrea K Gulley

Sent: Monday, February 25, 2019 5:59 PM

To: Wedgworth, Peggy ; Miller, Britt M.

Cc: McKenna, Elizabeth ; 'Ho, Derek T.' (dho@kellogghansen.com) ; Nemelka, Michael N. (mnemelka@kellogghansen.com) ; [SERVICE-EXTERNAL-DMS-MDL](#) (SERVICE-EXTERNAL-DMS-MDL@lists.kellogghansen.com) ; Reynolds Team

Subject: RE: DMS - Magistrate Gilbert hearing date

Counsel,

To make the meeting on Wednesday morning more efficient, Defendants suggest the following topics for discussion. Where noted, Defendants' proposals are included below. We would appreciate it if you would provide any responses for consideration tomorrow before cob CT.

1. Fact Discovery

- a. Party Witnesses: Identification and scheduling of all outstanding witnesses.
- b. Third Party Witnesses: Identification of any additional third party witnesses and scheduling issues with same.

Defendants' Proposal: For both party and third party witnesses -

- i. April 15 deadline remains in place except for specifically agreed witnesses or where necessary given pending court decision or document production issues (e.g., Dominion, inDesign).
- ii. All remaining witnesses to be identified this week.
- iii. Any specific request for a fact witness deposition to be taken after April 15 identified this week.
- iv. Limits set forth in Deposition Protocol Order (e.g., 2 party per week per side, etc.) remain in effect.

2. Experts

Defendants' Proposal: Assuming that there are not an extraordinary number of opening merits reports planned (to be discussed)-

- i. Opening merits reports due 60 days after end of fact discovery.
- ii. Rebuttal merits reports due 60 days after the affirmative reports.
- iii. Reply merits reports: due 30 days after rebuttal reports.

3. Dispositive Motions

Defendants' Proposal: Defendants propose that we stagger Daubert and Dispositive Motions so that they are not all due on the same day.

- i. Daubert: 4 weeks after reply reports; with 6 weeks to respond and 3 weeks to reply
- ii. Dispositive Motions: 6 weeks after reply reports; with 6 weeks to respond and 3 weeks to reply

Thank you,

Andi

Aundrea K. Gulley | Gibbs & Bruns LLP | 1100 Louisiana Suite 5300 | Houston, TX 77002 | 713.650.8805 firm | 713.751.5258 direct | 713.750.0903 fax | agulley@gibbsbruns.com | www.gibbsbruns.com

From: Wedgworth, Peggy <pwedgworth@milberg.com>

Sent: Friday, February 15, 2019 3:41 PM

To: Miller, Britt M. <BMiller@mayerbrown.com>

Cc: Aundrea K Gulley <agulley@gibbsbruns.com>; McKenna, Elizabeth <emckenna@milberg.com>; 'Ho, Derek T.' (<dho@kellogghansen.com>) <dho@kellogghansen.com>; Nemelka, Michael N. (<mnemelka@kellogghansen.com>) <mnemelka@kellogghansen.com>; SERVICE-EXTERNAL-DMS-MDL (<SERVICE-EXTERNAL-DMS-MDL@lists.kellogghansen.com>) <SERVICE-EXTERNAL-DMS-MDL@lists.kellogghansen.com>; Reynolds Team <ReynoldsTeam@gibbsbruns.com>

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Britt and Andi

We agree to option 2 below and will send an email today to the court copying you requesting a hearing date of February 27 in the afternoon.

Thank you.

Peggy and Mike

Sent from my iPhone

On Feb 15, 2019, at 12:58 PM, Miller, Britt M. <BMiller@mayerbrown.com> wrote:

Peggy –

Thank you. Your note to the Court is generally fine with the exception of the proposed date. We did not appreciate that the Continental deposition posed a conflict for the hearing. Unfortunately, that leaves us with a bit of a quandary. The week of March 4 and the following week—the week of March 10—present irreconcilable conflicts (including international travel) for the people on the Defense side that would need to be present for the hearing. Given the subject matter of the hearing, we would like to try to schedule the hearing sooner rather than later and, given counsels' other obligations in this matter and others, we would like to try to minimize the number of trips to Chicago for counsel not based here. As such, Defendants offer 3 alternatives:

1. The parties agree to move their meet-and-confer from the afternoon of February 27 to the afternoon of February 26 and inform the Court that the parties are available the morning of the 27th.
2. If the 26th is not an option (due to the AutoLoop deposition that day or otherwise), the parties move their meet-and-confer from 1:00 p.m. on the 27th to 10:00 a.m. on the 27th (to accommodate those that need to fly in the same day), and ask the Court to schedule the hearing for later that afternoon.
3. If for some reason that doesn't work, Defendants are willing to push back the Continental deposition to March 1 (one day later) or March 5 (the date previously proposed for Kenny Thomas) or, any date the week of March 4 (as the defense counsel responsible for the Continental deposition are not the counsel with conflicts the week of the 4th). This would allow the meet-and-confer to proceed on the 27th as scheduled and have the hearing go forth on the morning of the 28th.

We're hopeful that one of these options will work for Plaintiffs. Please let us know. – B

Britt M. Miller
MAYER BROWN LLP
71 South Wacker Drive
Chicago, Illinois 60606-4637
Direct Dial: (312) 701-8663
Direct Fax: (312) 706-8763
e-mail: bmiller@mayerbrown.com

From: Wedgworth, Peggy <pwedgworth@milberg.com>

Sent: Friday, February 15, 2019 11:31 AM

To: Aundrea K Gulley <agulley@gibbsbruns.com>; McKenna, Elizabeth <emckenna@milberg.com>; Miller, Britt M. <BMiller@mayerbrown.com>

Cc: 'Ho, Derek T.' (<dho@kellogghansen.com> <dho@kellogghansen.com>; Nemelka, Michael N. (<mnelka@kellogghansen.com> <mnelka@kellogghansen.com>; SERVICE-EXTERNAL-DMS-MDL (<SERVICE-EXTERNAL-DMS-MDL@lists.kellogghansen.com> <SERVICE-EXTERNAL-DMS-MDL@lists.kellogghansen.com>; Reynolds Team <ReynoldsTeam@gibbsbruns.com>

Subject: RE: DMS - Magistrate Gilbert hearing date

****EXTERNAL SENDER****

Andi and Britt,

As our email stated, the Feb. 20 date is unworkable for dealer counsel, and as you know Feb. 28 does not work since the Continental deposition is scheduled on that day. We suggested March 5, which you said was unworkable for defense counsel, and then shortly thereafter, we received a request for Kenny Thomas Enterprises, Inc./Olathe Toyota deposition for that date. March 5 will not work for Kenny Thomas's deposition and we will be proposing an alternative date within the 14 day window as per the deposition protocol. Given that deposition will not go forward on March 5, please let us know whether you would be able to attend a hearing before Judge Magistrate on that date. If not, does March 4 work? If not, please propose March dates that work for you.

If the parties are unable to agree on a date today, we propose sending an email to Judge Gilbert's deputy to take the hearing off the calendar--

Ms Rinozzi:

The parties jointly write in regard to Judge Gilbert's February 11 minute entry regarding a hearing on February 20, 2019, in *In re: Dealer Management Systems Antitrust Litigation*, No. 18-cv-00864. This date presents an irreconcilable conflict for dealership class counsel. Counsel for all the parties are having a meeting on February 27 to discuss a potential extension of the schedule, among other issues. Given the topics the Court intends to discuss at the hearing, we request the hearing occur after the February 27 meeting, and the parties propose a date of March [REDACTED] [or, if we can't agree on a date today, "parties will propose an alternative date next week].

Regards,

Peggy and Mike

From: Aundrea K Gulley <agulley@gibbsbruns.com>

Sent: Friday, February 15, 2019 11:32 AM

To: McKenna, Elizabeth <emckenna@milberg.com>; Miller, Britt M. (BMiller@mayerbrown.com) <BMiller@mayerbrown.com>

Cc: Wedgworth, Peggy <pwedgworth@milberg.com>; 'Ho, Derek T.' (dho@kellogghansen.com) <dho@kellogghansen.com>; Nemelka, Michael N. (mnelmelka@kellogghansen.com) <mnelmelka@kellogghansen.com>; SERVICE-EXTERNAL-DMS-MDL (SERVICE-EXTERNAL-DMS-MDL@lists.kellogghansen.com) <SERVICE-EXTERNAL-DMS-MDL@lists.kellogghansen.com>; Reynolds Team <ReynoldsTeam@gibbsbruns.com>

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Counsel:

So that we can finalize our travel plans, can you please let us know your preference on the below? We assume that you plan to go forward with the hearing on Wednesday, but please let us know today if that is not correct.

Thank you,

Andi

Aundrea K. Gulley | **Gibbs & Bruns LLP** | 1100 Louisiana Suite 5300 | Houston, TX 77002 | 713.650.8805 firm | 713.751.5258 direct | 713.750.0903 fax | agulley@gibbsbruns.com | www.gibbsbruns.com

From: Aundrea K Gulley

Sent: Wednesday, February 13, 2019 4:35 PM

To: 'McKenna, Elizabeth' <emckenna@milberg.com>; Miller, Britt M.

(<BMiller@mayerbrown.com>) <BMiller@mayerbrown.com>

Cc: Wedgworth, Peggy <pwedgworth@milberg.com>; 'Ho, Derek T.'

(<dho@kellogghansen.com>) <dho@kellogghansen.com>; Nemelka, Michael N.

(<mnemelka@kellogghansen.com>) <mnemelka@kellogghansen.com>; SERVICE-EXTERNAL-

DMS-MDL (<SERVICE-EXTERNAL-DMS-MDL@lists.kellogghansen.com>) <[SERVICE-EXTERNAL-](mailto:SERVICE-EXTERNAL-DMS-MDL@lists.kellogghansen.com)

[DMS-MDL@lists.kellogghansen.com](mailto:SERVICE-EXTERNAL-DMS-MDL@lists.kellogghansen.com)>; Reynolds Team <reynoldsteam@gibbsbruns.com>

Subject: RE: DMS - Magistrate Gilbert hearing date

Thanks, Liz. Defendants are fine with going forward with the hearing either on the date requested by the Court or after our planned meet and confer session. Defendants are available on the date and at the time requested by the Court. If you prefer to move the hearing to a later date, Defendants are ok with that but would prefer to do it while we are all in town anyway – e.g., on Feb. 28 – to avoid unnecessary travel. In any event, unfortunately, Defense counsel is not available March 5-8 for a hearing. Defense counsel also has conflicts later in the day on Feb. 28, so Defense counsel proposes that if Plaintiffs want to push the hearing back, that it is pushed back to 9am (or earlier) on Feb. 28 (later in the day is not available). If 9am on Feb. 28 (or another mutually agreeable time) works, we ask that you please provide Defendants with the draft language that you propose to send to Judge Gilbert's clerk.

Regards,

Andi

Aundrea K. Gulley | Gibbs & Bruns LLP | 1100 Louisiana Suite 5300 | Houston, TX 77002 | 713.650.8805 firm | 713.751.5258 direct | 713.750.0903 fax | agulley@gibbsbruns.com | www.gibbsbruns.com

From: McKenna, Elizabeth <emckenna@milberg.com>

Sent: Wednesday, February 13, 2019 2:46 PM

To: Aundrea K Gulley <agulley@gibbsbruns.com>; Miller, Britt M.

(<BMiller@mayerbrown.com>) <BMiller@mayerbrown.com>

Cc: Wedgworth, Peggy <pwedgworth@milberg.com>; 'Ho, Derek T.'

(<dho@kellogghansen.com>) <dho@kellogghansen.com>; Nemelka, Michael N.

(<mnemelka@kellogghansen.com>) <mnemelka@kellogghansen.com>; SERVICE-EXTERNAL-

DMS-MDL (<SERVICE-EXTERNAL-DMS-MDL@lists.kellogghansen.com>) <[SERVICE-EXTERNAL-](mailto:SERVICE-EXTERNAL-DMS-MDL@lists.kellogghansen.com)

[DMS-MDL@lists.kellogghansen.com](mailto:SERVICE-EXTERNAL-DMS-MDL@lists.kellogghansen.com)>

Subject: DMS - Magistrate Gilbert hearing date

Andi and Britt,

We write regarding Magistrate Gilbert's minute entry on Feb. 11. Though he set a hearing date of Feb. 20, he invited a joint communication if a conflict prevented attendance on that day. Dealership Counsel have conflicts on that day, and all Plaintiffs' counsel agree that since we have an in person meeting on Feb. 27 in Chicago, Plaintiffs' counsel propose that we jointly request a new hearing date of March 5 at 9:00 am. If you agree, we will notify Magistrate Gilbert's courtroom deputy.

Regards,

Peggy and Mike

Elizabeth McKenna

MILBERG TADLER PHILLIPS GROSSMAN LLP

One Pennsylvania Plaza, 19th Floor
New York, New York 10119
T: 212.631.8605
F: 212.273.4337
emckenna@milberg.com

Bio Website

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